

Office of the Secretary of State
Building 1 Suite 157-K
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Charleston, WV 25305



Mac Warner
Secretary of State
State of West Virginia
Phone: 304-558-6000
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9214 8901 1251 3410 0002 9563 77

NORTH AMERICAN INDUSTRIAL SERVICES, INC.
C. T. Corporation System
1627 QUARRIER ST.
CHARLESTON, WV 25311

Control Number: 266537

Defendant: NORTH AMERICAN INDUSTRIAL
SERVICES, INC.
1627 QUARRIER ST.
CHARLESTON, WV 25311 US

Agent: C. T. Corporation System

County: Putnam

Civil Action: 20-C-173

Certified Number: 92148901125134100002956377

Service Date: 11/17/2020

I am enclosing:

1 summons and complaint

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in the name and on behalf of your corporation.

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in the name and on behalf of your corporation as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.

Sincerely,

Mac Warner

Mac Warner
Secretary of State

EXHIBIT "1"

SUMMONS

Case 3:21-cv-00040 Document 1-1 Filed 01/15/21 Page 2 of 10

E-FILED 11/12/2020 11:57 AM
CC-40-2020-C-173
Putnam County Circuit Clerk
William Mullins

IN THE CIRCUIT OF PUTNAM WEST VIRGINIA Billy Joe Munsey v. Doyle Smith

Service Type: Secretary of State - Certified - Including Copy Fee

NOTICE TO: North American Industrial Services, Inc., 1627 Quarrier Street, Charleston, WV 25311

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

Michael Del Giudice, 1219 Virginia St E Ste 100, Charleston, WV 25301

THE ANSWER MUST BE MAILED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

SERVICE:

11/12/2020 11:55:14 AM

Date

/s/ William Mullins

Clerk

RETURN ON SERVICE:

☐ Return receipt of certified mail received in this office on _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to _____

☐ Not Found in Bailiwick

Date

Server's Signature

ACCEPTED FOR
SERVICE OF PROCESS
2020 NOV 17 A 10:56
SECRETARY OF STATE
STATE OF WEST VIRGINIA

COVER SHEET

E-FILED: 1/15/2020 11:55 AM
CC-40-2020-C-173
Putnam County Circuit Clerk
William Mullins

GENERAL INFORMATION

IN THE CIRCUIT COURT OF PUTNAM COUNTY WEST VIRGINIA

Billy Joe Munsey v. Doyle Smith

First Plaintiff:

☐ Business ☒ Individual
☐ Government ☐ Other

First Defendant:

☐ Business ☒ Individual
☐ Government ☐ Other

Judge:

Joseph Reeder

COMPLAINT INFORMATION

Case Type: Civil

Complaint Type: Other

Origin: ☒ Initial Filing ☐ Appeal from Municipal Court ☐ Appeal from Magistrate Court

Jury Trial Requested: ☒ Yes ☐ No **Case will be ready for trial by:** 11/14/2021

Mediation Requested: ☐ Yes ☒ No

Substantial Hardship Requested: ☐ Yes ☒ No

☐ Do you or any of your clients or witnesses in this case require special accommodations due to a disability?

- ☐ Wheelchair accessible hearing room and other facilities
- ☐ Interpreter or other auxiliary aid for the hearing impaired
- ☐ Reader or other auxiliary aid for the visually impaired
- ☐ Spokesperson or other auxiliary aid for the speech impaired
- ☐ Other: _____

☐ I am proceeding without an attorney

☒ I have an attorney: Michael Del Giudice, 1219 Virginia St E Ste 100, Charleston, WV 25301

SERVED PARTIES

Name: Doyle Smith
Address: P.O. Box 511, Poca WV 25159
Days to Answer: 20 **Type of Service:** Sheriff - Including Copy Fee

Name: North American Industrial Services, Inc.
Address: 1627 Quarrier Street, Charleston WV 25311
Days to Answer: 30 **Type of Service:** Secretary of State - Certified - Including Copy Fee

IN THE CIRCUIT COURT OF PUTNAM COUNTY, WEST VIRGINIA

BILLY JOE MUNSEY,

PLAINTIFF,

VS.

CIVIL ACTION NO. _____

**DOYLE SMITH and NORTH AMERICAN
INDUSTRIAL SERVICES, INC., a New York
corporation,**

DEFENDANTS.

COMPLAINT

Now comes the Plaintiff, Billy Joe Munsey, by counsel, who for his cause of action against the Defendants, Doyle Smith and North American Industrial Services, Inc., states as follows:

PARTIES

1. The Plaintiff, Billy Joe Munsey, at the time of this collision set forth below was a resident of West Virginia.

2. The Defendant, Doyle Smith (hereinafter referred to as "Defendant Smith"), now is and at all times hereinmentioned was a resident of Putnam County, West Virginia and an employee of the Defendant, North American Industrial Services, Inc. and acting within the scope of his employment.

3. The Defendant, North American Industrial Services, Inc. (hereinafter referred to as "Defendant NAIS"), now is and at all times hereinmentioned was a New York corporation doing business in Putnam County, West Virginia and was the employer of Defendant Smith, and therefore is vicariously liable for any and all acts and omissions committed by Defendant

Smith.

STATEMENT OF FACTS

4. On or about November 27, 2018, the Plaintiff was a pedestrian walking along the berm of Route 25 in Putnam County, West Virginia.

5. On the same date and at the same time, Defendant Smith was an employee of Defendant NAIS and operating a motor vehicle owned by Defendant NAIS, with permission, and traveling along Route 25 in the same area in Putnam County, West Virginia.

6. On said date, Defendant Smith operated Defendant NAIS's motor vehicle in such a manner as to collide with the Plaintiff who was lawfully walking along the berm of Route 25.

7. As a result of the incident, the Plaintiff has suffered severe and permanent physical and mental injuries.

CAUSE OF ACTION

(Negligence)

8. The Plaintiff realleges, reasserts and incorporates by reference each and every allegation set forth in Paragraphs 1 through 7 of this Complaint as if fully set forth herein.

9. Defendant Smith had a duty to operate said motor vehicle in a reasonably prudent manner so as to prevent colliding with pedestrians and the Plaintiff, in particular.

10. Defendant Smith breached said duty by operating said motor vehicle in a negligent manner and causing a collision with the Plaintiff.

11. As a direct and proximate result of Defendant Smith's negligence, the Plaintiff has incurred medical bills, lost wages and other incidental expenses, and it is reasonably certain he will incur all of the these into the future, for which both Defendants are liable.

12. As a further direct and proximate result of Defendant Smith's negligence, the Plaintiff has endured physical and emotional pain and suffering, annoyance and inconvenience, loss of his capacity to enjoy life, and it is reasonably certain he will continue to suffer all of these into the future, for which both Defendants are liable.

DAMAGES

13. As a direct and proximate result of the Defendants' wrongful conduct as set forth hereinabove, the Plaintiff is entitled to the following damages:

- A. Past and future medical expenses;
- B. Past and future lost wages;
- C. Past and future mental pain and suffering;
- D. Past and future physical pain and suffering;
- E. Loss of enjoyment of life;
- D. Annoyance and inconvenience;
- E. Attorney fees; and
- F. Such other damages as may have been incurred by the Plaintiff.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff asserts the amount in controversy exceeds the necessary minimum amount required for jurisdiction in this Court and demands judgment of and against the Defendants for compensatory damages as to be determined by a jury. The Plaintiff further requests he be awarded his costs and expenses incurred in bringing this suit, including reasonable attorney fees, and such other relief as the Court deems just.

The Plaintiff demands Trial by jury.

BILLY JOE MUNSEY

By Counsel,

CICCARELLO, DEL GIUDICE & LAFON

By: /s/Michael J. Del Giudice

Michael J. Del Giudice (WV #982)
1219 Virginia Street East, Suite 100
Charleston, West Virginia 25301
Phone: (304) 343-4440
Attorney for Plaintiff

**CIVIL CASE INFORMATION STATEMENT
CIVIL CASES**

IN THE CIRCUIT COURT, POTNAM COUNTY, WEST VIRGINIA

I. CASE STYLE:

BILLY JOE MUNSEY,

PLAINTIFF,

VS.

CIVIL ACTION NO. _____

**DOYLE SMITH and NORTH AMERICAN
INDUSTRIAL SERVICES, INC., a New York
corporation,**

DEFENDANTS.

	<u>Days to</u>	<u>Service</u> <u>Answer</u>
DOYLE SMITH P.O. Box 511 Poca, West Virginia 25159	20	Personal
NORTH AMERICAN INDUSTRIAL SERVICES, INC. c/o CT Corporation System 1627 Quarrier Street Charleston, West Virginia 25311-2124	30	Secretary of State

Original of Complaint and 2 copies furnished herewith.

PLAINTIFF(S): BILLY JOE MUNSEY **CASE NO.**
DEFENDANT(S): DOYLE SMITH and NORTH AMERICAN INDUSTRIAL SERVICES, INC., a New York corporation

II. TYPE OF CASE:

<input type="checkbox"/> ASBESTOS	<input type="checkbox"/> ADOPTION	<input type="checkbox"/> APPEAL FROM MAGISTRATE COURT
<input type="checkbox"/> PROFESSIONAL MALPRACTICE	<input type="checkbox"/> CONTRACT	<input type="checkbox"/> PETITION FOR MODIFICATION OF MAGISTRATE SENTENCE
<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> REAL PROPERTY	<input type="checkbox"/> MISCELLANEOUS CIVIL
<input type="checkbox"/> PRODUCT LIABILITY	<input type="checkbox"/> MENTAL HEALTH	<input checked="" type="checkbox"/> OTHER
<input type="checkbox"/> OTHER TORT	<input type="checkbox"/> APPEAL OF ADMINISTRATIVE AGENCY	

III. JURY DEMAND ☒ YES ☐ NO

CASE WILL BE READY FOR TRIAL BY (MONTH/YEAR): _____

IV. DO YOU OR ANY OF YOUR CLIENTS OR WITNESSES IN THIS CASE REQUIRE SPECIAL ACCOMMODATIONS DUE TO A DISABILITY OR AGE?

☐ YES ☒ NO

IF YES, PLEASE SPECIFY;

- ☐ Wheelchair accessible hearing room and other facilities.
- ☐ Interpreter or other auxiliary aid for the hearing impaired.
- ☐ Reader or other auxiliary aid for the visually impaired.
- ☐ Spokesperson or other auxiliary aid for the speech impaired.
- ☐ Other: UNKNOWN

Attorney Name: Michael J. Del Giudice #982

Firm: CICCARELLO, DEL GIUDICE & LaFON

Address: 1219 Virginia Street, East, Suite 100
Charleston, West Virginia 25301

Telephone: (304) 343-4440

Dated: November 11, 2020

Representing:

☒ Plaintiff ☐ Defendant

/s/ Michael J. Del Giudice
Signature

Pro Se